

### **REMARKS/ARGUMENTS**

This Amendment is in response to the Final Office Action mailed July 1, 2005. In the Office Action, claims 1-7 and 17-21 were rejected under 35 U.S.C. §102(e); and claims 12, 14, and 15 were rejected under 35 U.S.C. §103(a). Herein, claim 14 has been amended, original claims 1-11, 13 and 16-21 have been cancelled. Claims 22-40 have been added.

#### ***Request for Examiner's Interview***

The Examiner is respectfully requested to contact the undersigned by telephone at the phone number listed below if after review, such claims are still not in condition for allowance. This telephone conference would greatly facilitate the examination of the present application. The undersigned attorney can be reached at the telephone number listed below.

#### ***Specification***

Applicants respectfully submit that Exhibit A of the response does not constitute an addition of substantive new matter into the disclosure of the subject application. Exhibit A was merely a reference to point out the differences between frame types supported by IEEE 802.11. There is no request for the addition of this information into the patent application. Therefore, Applicants respectfully request that the rejection under 35 U.S.C. §132 be withdrawn.

#### ***Rejection Under 35 U.S.C. § 102***

Claims 1-7 and 17-21 were rejected under 35 U.S.C. §102(e) as being anticipated by Chuah (U.S. Patent 6,115,390). Applicants respectfully traverse the rejection because a *prima facie* case of anticipation has not been established.

As the Examiner is aware, to anticipate a claim, the reference must teach every element of the claim. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Vergegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the...claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ 2d 1913, 1920 (Fed. Cir. 1989).

Applicants respectfully submit that Chuah does not teach each and every limitation set forth in the claimed invention, and respectfully requests the Examiner to contact the undersigned attorney if further discussion is needed for clarification.

#### ***Rejections Under 35 U.S.C. § 103***

Claims 12, 14, and 15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Chuah in view of IEEE 802.11 (Chapter 7). Applicants respectfully disagree with the rejection because a *prima facie* case of obviousness has not been established. When evaluating a claim for determining obviousness, *all* limitations of the claim must be evaluated. *See In re Fine*, 873 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988) (Emphasis added). Neither Chuah nor IEEE Chapter 7,

alone or in combination, describes or suggests each and every limitation set forth in the claimed invention. Applicants respectfully request the Examiner to reconsider the allowability of the pending claims.

***Conclusion***

Applicants respectfully request consideration of pending claims 12, 14-15 and 22-40.

Respectfully submitted,

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Dated: 11/01/2005

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Susan McFarlane

11/01/2005

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